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MICHIGAN'S ESSENTIAL INSURANCE AND NO-FAULT LAWS:

Economic and Philosophic Issues

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The Michigan legislature, presumably representing the best interests of the majority of citizens of the state, has enacted two pieces of legislation which profoundly affect homeowners, renters, automobile owners, and insurance companies. These acts are commonly known as Michigan's No-Fault Automobile Insurance Law and Michigan's Essential Insurance Act. Since both of these laws have been described frequently and extensively in the mass media, only brief summaries are provided in this article in Exhibits I and II. Instead, attention is directed to an economic and philosophic analysis of the effects of selected provisions of these two pieces of legislation, with emphasis on automobile insurance.

A careful examination of the specific provisions of the no-fault law and the essential insurance law reveals that our government has determined that a free enterprise private insurance industry is not in the public interest. The government has decreed, instead, that we will have a government mandated and controlled quasi-private property and casualty insurance industry. Michigan has imposed a form of socialism upon the property and casualty insurance companies operating within this state and also upon all of its citizens. It has not yet chosen the next step of offering competing coverage through a competitive state insurance company or the following step of a monopolistic mandatory state insurance fund. To claim, however, that our present automobile and home insurance is provided under a capitalistic free enterprise supply and demand system is false and a rejection of the facts.

For example, the rating constraints imposed upon the insurance industry are a form of rejection of the traditional, market-derived rating practice and the substitution instead of a social policy-directed rating requirement. Although the insurance mechanism is a socialistic enterprise when a single rate structure is employed, in practice, competition has resulted in rates which have tended to reflect the actual losses of the risks covered within a class. A fundamental private insurance principle is that the rate charged should reflect the probable loss cost of the risk insured. This is consistent with the principle of equity.

The rating law both prior to and after the enactment of the essential insurance law provides that property and casualty rates shall not be inadequate, excessive, or unfairly discriminatory. Although the law does not define "unfairly discriminatory," this criterion is included to permit discrimination in rates and rating classifications as long as the discrimination is not unfair. In other words, it is recognized that there are or may be differences in risks and that a rate which reflects

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a low loss probability, based on frequency or severity, is not unfair when compared with a rate which reflects a high loss probability, and, in fact, reflects an equitable or fair discrimination between two different risks. It is equitable to charge two distinctly different rates for two distinctly different risks, if those rates are fairly discriminatory between the risks.

The Essential Insurance Act prohibits insurers from using sex and marital status as rating factors. Yet insurance loss statistics conclusively show that these two variables have a profound effect on loss experience. If you are a woman, what economic or equitable justification is there for requiring you to subsidize a male whose loss probability and experience is higher than yours? Or for a married person with low loss experience to subsidize a single person with higher loss experience? There is no valid economic or equitable justification, but there is a social justification. Is this what we really want? Is it fair for the careful low or no loss driver to pay for the high loss driver?

The Michigan legislature's inclination toward imposing a social adequacy philosophy upon the insuring citizens of the state is also found in the No-Fault Automobile Insurance Law. No-fault is a misnomer since the law does permit tort actions based upon fault in certain bodily injury situations. A better title would have been a "partial compensation automobile insurance system," as that is what the legislature actually mandated. This is a social insurance program since coverage is mandatory.

As part of the no-fault law, a fundamental private right has been taken away from the individual citizens of the state. We have lost the right to recover the cost of property damage to our vehicles caused by a negligent driver or tortfeasor. The Essential Insurance Act modifies this loss in limited situations up to $400. Assume the following fact situation. You and your spouse have broad form collision coverage; you are waiting in your car for the red light to turn green when your car is struck in the rear by a driver who does not have his vehicle under control. Assume further that you and your spouse both suffer bodily injury and, as a result of the collision, your car sustains $5,000 of property damage. Since you have broad form collision coverage and since the other driver was 100 percent at fault, you will collect from your own automobile insurance company the $5,000 of property damage you sustained. The no-fault and essential insurance laws prohibit you from bringing a tort action against the negligent party who caused your property damage. If you did not carry collision coverage, the loss would fall upon you and your spouse, except you could bring a mini-tort action against the tortfeasor to recover the first $400 of your $5,000 loss, leaving you with a loss of $4,600. Again, is this equitable? Is it fair for you to bear the loss to which you did not contribute but which, instead, was caused by someone else who does not have to pay for the damages he caused?

As far as your bodily injury expenses are concerned, you would also have to recover these from your own automobile insurance policy under the personal injury protection (PIP) section of the no-fault law. Since the law provides unlimited medical and hospital expenses, your expenses would be covered in full, and, in effect, everyone with this insurance would be paying for the damages caused by the negligent driver. As Mr. Charles Trubac, regional vice-president of State Farm, recently said, "It is clear that Michigan no-fault has performed well for the consumers who have been victims of injuries sustained in automobile accidents. Equally though, our concern must be for the uninjured—that vast majority who must pay for the excessive generosity of no-fault benefits in Michigan."[1]

Mr. Trubac also pointed out that State Farm's PIP reserve increased 254 percent in the last five years, from $20.6 million in 1976 to $73 million at the end of 1981.[2] Part of this increase in PIP reserve is attributable to the annual increase in the work loss and dependent survivors' benefits, which are tied to the change in the Consumer Price Index from July 1 to June 30 of the following year. Exhibit III indicates what these increases have been since the no-fault law took effect on October 1, 1973. The maximum monthly benefit has increased from $1,000 in 1973 to $2,049 currently, which clearly shows the 104.9 percent increase in the Consumer Price Index in the last ten years. From 1976 to 1982 the benefit has increased 49 percent, from $1,373 to $2,049, which is substantially less than the 254 percent that State Farm increased its PIP reserve. The difference is accounted for by the increase in medical and hospital expenses, which are directly related to the actual charges made and which increased much faster than other components of the Consumer Price Index during this period. The PIP funeral expense benefit is statutorily fixed and is not indexed.

Several points may be made relative to the medical and hospital expense benefit of Michigan's no-fault automobile insurance. First, it is working very well in paying for expenses for automobile accident victims. Second, doctors and hospitals have been promptly reimbursed by the insurance companies. Third, there are no cost controls on the providers of services since the law allows unlimited benefits. Fourth, the cost of these benefits falls upon the entire insured motoring public rather than being charged directly to the person responsible for the loss. Once again we see a socialist philosophy imposed upon the citizens of the state.

The Essential Insurance Act, better known as PA 145, is a lengthy twenty-nine page complex piece of legislation. The substance of the law is summarized in Exhibit I. The impetus for the legislation was a report to the governor, drafted by the Michigan Insurance Bureau, entitled "Essential Insurance in Michigan: An Avoidable Crisis." The Michigan Insurance Bureau with a few other state insurance departments and the Federal Insurance Administration developed what has been called the New View's regulatory position "that competition creates large scale insurance availability problems and widespread unfair discrimination in the prices for insurance."[3] A careful analysis of the Insurance Bureau's report and PA 145 reveals that the fundamental purpose of the act is to provide for the regula-

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A YEAR OF CHANGE: The Essential Insurance Act in 1981

Note: A Year of Change: The Essential Insurance Act of 1981 *is Part I of a study prepared by the Insurance Bureau, Michigan Department of Licensing and Regulation. The complete report, showing the effects of the law on both insurance consumers and the industry itself, is available from the bureau.*

BACKGROUND

In the early and mid-1970s, the insurance market for personal lines coverages—auto and home, the "essential" insurance coverages—was not working well. The market was in fact often working against consumers.

Many good drivers were being forced to purchase very expensive coverage or to get their insurance through the Michigan Automobile Insurance Placement Facility (MAIPF) where they had no choice of insurer, a limited choice of coverage, and paid higher rates, even if their driving records were perfect. Since auto insurance is required in Michigan, this availability problem was troubling.

Many tenants and homeowners were being refused insurance or forced to buy coverage through the Michigan Basic Property Insurance Association (MBPIA, often called the FAIR Plan), where they paid high rates for very limited coverage. Since almost everyone wants and needs home insurance this situation, too, was a source of concern.

In addition, in 1977 and 1978, the Michigan Supreme Court was considering the case of *Shavers* v. *Attorney General,* which challenged the constitutionality of Michigan's no-fault insurance act. In its decision, the court held that the no-fault act was, in fact, constitutional, but that the ratemaking mechanisms were constitutionally inadequate to assure that the required coverage would be available at fair and equitable rates. The court also determined that Michigan drivers have a right to an explanation of how their individual rates are determined and a way to appeal decisions of insurance companies which they believe treated them unfairly. The court gave the legislature and the commissioner of insurance until the end of 1979 to address the shortcomings in the auto insurance market.

In response to the auto and home insurance affordability and availability problems, and with the added impetus of the Supreme Court decision, the legislature, after much negotiation and input from all those concerned with the workings of the insurance marketplace, developed what came to be known as the Essential Insurance Act.

The major provisions of Public Act 145 of 1979, as amended by Public Act 147 of 1979 and Public Act 461 of 1980, took effect on January 1, 1981. The act made important revisions in the underwriting and rating of private passenger auto insurance and home insurance in Michigan.

PROVISIONS OF THE ACT

The Essential Insurance Act, by making significant changes in the auto and home insurance marketplace, works to eliminate unfairly discriminatory practices such as redlining and other affordability and availability problems encountered by many persons under the old insurance system. A major purpose of the act is to guarantee consumers the right to shop for the best coverage at the lowest price. The act gives consumers access to the standards upon which underwriting decisions are based, as well as a means to appeal those decisions.

Under the act, auto insurance means the mandatory no-fault coverages for private passenger non-fleet automobiles, as well as optional coverages which may be available, such as collision, comprehensive and uninsured motorists coverages.

Home insurance refers not only to homeowners package policies, which include theft and liability coverages, but also to fire insurance policies, which provide only property protection.

While the law affected most areas in the auto and home insurance marketplace, it had its greatest impact in three areas: underwriting, rating, and consumer rights.

UNDERWRITING

In the past, the evaluation of an applicant prior to deciding whether to offer insurance was a process controlled solely by the agent or company, and the underwriting standards or rules followed in the process did not have to be written down or explained to the applicant. The resulting decisions were often based on an agent's first impression of the applicant.

The new law requires that all underwriting rules be written down and applied to everyone in the same manner. In other words, a person either meets a company's underwriting standards or doesn't; if he does, the company must offer that person insurance. Case-by-case subjective decision-making, which often resulted in unfair discrimination, is prohibited. The new law also specifies the only factors on which a company may base its underwriting rules. These factors are objective and directly related to risk.

All underwriting rules used by each company writing auto and home insurance in Michigan and all inspection criteria used by home insurers must be filed with the Insurance Bureau prior to use.

RATING

While the law still requires that rates not be excessive, inadequate, or unfairly discriminatory, the prior approval of rates by the commissioner of insurance is no longer required. Rates will now be set by the competitive market. In addition, the new law requires that rates must be based on factors more directly related to risk. For home insurance, this means factors such as the amount and type of coverage, the availability of fire and police protection, and security and safety devices. For auto insurance, companies may consider charac-

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Michigan Economic Indicators

Item	Year previous of latest month	Previous month	Latest month
Manufacturing workers:			
Average weekly hours, Michigan	41.8	40.3	41.6 (June)
Average weekly hours, U.S.	40.2	39.0	39.2 (June)
Average hourly earnings, Michigan ($)	10.56	11.28	11.40 (June)
Average hourly earnings, U.S. ($)	7.97	8.45	8.51 (June)
U.S. motor vehicle production (units)	893,335	707,086	779,580 (June)
Michigan electricity usage (mil. kwh.)	5,921	5,415	5,656 (Mar.)
Industrial (mil, kwh.)	2,704	2,170	2,445 (Mar.)
Residential (mil. kwt.)	1,815	1,879	1,813 (Mar.)
Raw steel production:			
Michigan (000 net tons)	788	592	617 (May)
United States (000 net tons)	11,374	6,982	6,578 (May)
Consumer price index (1967 = 100)			
Detroit area	280.5	285.9	289.1 (June)
United States	271.3	287.1	290.6 (June)
U.S. producer price index (1967 = 100)	294.5	298.6	299.4 (June)
Michigan farm prices received index (1977 = 100)	138	139	134 (June)

Sources: U.S. Bureau of the Census; U.S. Bureau of Labor Statistics; Michigan Crop Reporting Service; Motor Vehicle Manufacturers Association, Inc.; American Iron and Steel Institute; and Energy Information Administration.

Contracts for Future Building, First 6 Months: 1981 and 1982

(Thousands of Dollars)

Area	Nonresidential 1981	Nonresidential 1982	Nonresidential Percentage change	Residential 1981	Residential 1982	Residential Percentage change	Total[a] 1981	Total[a] 1982	Total[a] Percentage change
Ann Arbor	27,810	39,534	+ 42	20,241	8,808	− 56	48,051	48,432	+ 1
Battle Creek	11,326	13,612	+ 20	8,170	5,431	− 34	19,496	19,043	+ 2
Bay City	2,600	5,343	+106	3,444	5,343	+ 55	6,044	10,623	+ 76
Detroit	456,224	206,902	− 55	199,311	104,195	− 48	655,535	311,097	− 53
Flint	21,935	9,603	− 56	18,316	15,001	− 18	40,251	24,604	− 39
Grand Rapids	34,478	29,133	− 16	61,039	41,081	− 33	95,517	70,214	− 26
Jackson	11,336	3,001	− 74	9,668	3,703	− 62	21,004	6,704	− 68
Kalamazoo-Portage	22,961	55,353	+141	39,898	16,659	− 58	62,859	72,012	+ 15
Lansing-East Lansing	23,407	10,336	− 56	60,777	17,764	− 71	84,184	28,100	− 67
Muskegon-Norton Shores-Muskegon Heights	6,891	8,427	+ 22	13,393	9,086	− 32	20,284	17,513	− 14
Saginaw	5,698	13,639	+139	15,723	4,034	− 74	21,421	17,673	− 17
Toledo	96,099	53,188	− 45	81,581	34,289	− 58	177,680	87,477	− 51
Michigan	726,268	454,218	− 37	617,525	355,142	− 42	1,343,793	809,360	− 40
United States	29,158,200	27,082,300	− 7	32,645,100	25,748,400	− 21	61,803,300	52,830,700	− 15

Source: F. W. Dodge Division of McGraw-Hill Information Systems Company, news releases.

Note: Battle Creek includes Barry and Calhoun counties; Detroit includes Lapeer, Livingston, Macomb, Oakland, St. Clair, and Wayne counties; Flint includes Genesee and Shiawassee counties; Grand Rapids includes Kent and Ottawa counties; Kalamazoo-Portage includes Kalamazoo and Van Buren counties; Lansing-East Lansing includes Clinton, Eaton, Ingham, and Ionia counties; Muskegon-Norton Shores-Muskegon Heights includes Muskegon and Oceana counties; and Toledo includes Monroe County, Michigan, and Fulton, Lucas, Ottawa, and Wood counties, Ohio.

a. Excludes nonbuilding construction contracts. This category comprises streets and highways, bridges, dams, reservoirs, river and harbor developments, sewerage and water supply systems, missile and space flight facilities, airports, utilities, and communication systems. For Michigan the 1981 and 1982 figures for nonbuilding construction contracts were $506,062,000 and $308,968,000 respectively, or a decrease of 39 percent. For the United States they were $17,721,800,000 and $18,191,400,000 respectively, or an increase of 3 percent. Total building and nonbuilding construction contracts declined by 40 percent in Michigan and 11 percent nationwide.

Quarterly Personal Income in Michigan

	Millions of dollars, annual rates, seasonally adjusted							Percentage change	
	1980		1981				1982	81(4) to 82(1)	
	3	4	1	2	3	4	1	Michigan	United States
TOTAL LABOR AND PROPRIETORS INCOME BY PLACE OF WORK									
BY TYPE									
Wage and salary disbursements	55,913	59,567	60,308	61,357	61,585	60,696	61,056	+ .6	+ 1.0
Other labor income	7,784	8,457	8,551	8,828	8,817	8,712	8,913	+ 2.3	+ 2.1
Proprietors income	4,540	4,769	4,768	4,796	4,847	4,858	4,633	− 4.6	− 5.7
Farm	502	542	464	515	566	606	413	−31.8	−30.6
Nonfarm	4,038	4,227	4,304	4,281	4,281	4,252	4,220	− .8	− .7
BY INDUSTRY									
Farm	714	754	679	736	791	836	649	−22.4	−19.8
Nonfarm	67,523	72,039	72,947	74,245	74,458	73,430	73,953	+ .7	+ 1.0
Private	58,093	62,464	63,338	64,365	64,334	63,161	63,746	+ .9	+ .9
Ag. Serv., For., Fish., and other	181	181	194	191	190	194	195	+ .5	+ 1.0
Mining	326	367	370	362	390	377	388	+ 2.9	+ .4
Construction	2,772	3,051	3,087	2,947	2,802	2,754	2,647	− 3.9	+ .5
Manufacturing	26,785	29,931	30,447	31,664	31,142	29,768	30,207	+ 1.5	− .2
Nondurable goods	4,451	4,687	4,745	4,896	4,942	4,831	4,986	+ 3.2	+ .8
Durable goods	22,334	25,244	25,702	26,768	26,200	24,938	25,220	+ 1.1	− .7
Transportation and public utilities	3,987	4,213	4,102	4,023	4,088	4,103	4,161	+ 1.4	+ 1.1
Wholesale trade	3,727	3,855	3,937	3,955	4,005	4,051	4,004	− 1.2	+ 1.1
Retail trade	6,268	6,454	6,552	6,530	6,640	6,567	6,524	− .7	+ 1.1
Finance, insurance, and real estate	3,033	3,115	3,019	3,029	3,044	3,088	3,127	+ 1.3	+ 1.5
Services	11,013	11,297	11,632	11,664	12,033	12,259	12,492	+ 1.9	+ 2.2
Government and government enterprise	9,430	9,575	9,610	9,880	10,123	10,269	10,208	− .6	+ 1.5
Federal, civilian	1,177	1,204	1,186	1,194	1,234	1,271	1,252	− 1.5	+ 1.2
Federal, military	192	213	209	212	217	252	249	− 1.2	+ .6
State and local	8,061	8,159	8,214	8,473	8,672	8,746	8,707	− .4	+ 1.7
DERIVATION OF PERSONAL INCOME BY PLACE OF RESIDENCE									
Total labor and proprietors income by place of work	68,237	72,793	73,626	74,982	75,249	74,266	74,602	+ .5	+ .6
Less: Personal contributions for social insurance by place of work	3,586	3,889	4,265	4,293	4,274	4,198	4,376	+ 4.2	+ 4.3
Net labor and proprietors income by place of work	64,651	68,904	69,361	70,689	70,975	70,068	70,226	+ .2	+ .4
Plus: Residence adjustment	445	450	500	501	515	516	514	− .4	+ 1.5
Net labor and proprietors income by place of residence	65,096	69,354	69,861	71,190	71,490	70,584	70,740	+ .2	+ .4
Plus: Dividends, interest, and rent	13,087	13,410	14,219	14,788	15,481	16,047	16,475	+ 2.7	+ 2.5
Plus: Transfer payments	14,213	14,150	14,436	15,003	15,852	16,392	16,759	+ 2.2	+ 2.1
State U.I. benefits	1,709	1,242	1,059	1,287	1,167	1,403	1,401	− .1	+14.3
Transfers excluding state U.I.	12,504	12,908	13,376	13,716	14,685	14,989	15,358	+ 2.5	+ 1.5
Personal income by place of residence	92,396	96,914	98,515	100,981	102,823	103,023	103,974	+ .9	+ 1.0

Source: Bureau of Economic Analysis, special release.

Year-to-Year Change in Selected Economic Indicators

Indicator	Percentage change from previous year												
	1981							1982					
	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June
Civilian Employment													
United States	+ 1.6	+ 1.9	+ 1.9	+ 1.1	+ 1.0	+ 0.7	0	− 0.3	− 0.5	− 0.9	− 1.5	− 0.9	− 0.7
Michigan	+ 3.8	+ 3.8	+ 2.8	+ 1.7	+ 1.9	+ 1.4	− 2.5	− 2.1	− 1.0	− 3.4	− 5.0	− 3.5	− 5.0
Detroit area SMSA[a]	+ 2.9	+ 2.4	+ 1.2	+ 0.8	+ 0.6	+ 0.6	− 3.7	− 3.0	− 2.2	− 4.3	− 5.8	− 4.2	− 5.8
Outstate[b]	+ 4.6	+ 5.1	+ 4.2	+ 2.5	+ 2.9	+ 2.1	− 1.5	− 1.3	− 0.1	− 2.7	− 4.4	− 2.9	− 4.4
Wage and Salary Jobs[c]													
United States	+ 1.4	+ 1.9	+ 1.5	+ 1.4	+ 1.1	+ 0.5	− 0.1	− 0.5	− 0.5	− 0.8	− 1.1	− 1.1	− 1.4
Michigan	− 0.1	+ 0.3	− 0.7	+ 0.3	− 1.9	− 2.9	− 4.3	− 4.4	− 4.0	− 4.5	− 5.4	− 5.1	− 5.0
Detroit area SMSA[a]	− 0.7	− 0.6	− 1.6	− 0.7	− 2.6	− 3.5	− 5.0	− 4.7	− 4.7	− 4.8	− 5.7	− 5.5	− 6.0
Outstate[b]	+ 0.4	+ 1.2	+ 0.1	+ 1.2	− 1.2	− 2.3	− 3.6	− 4.1	− 3.3	− 4.1	− 5.1	− 4.8	− 4.1
Average Workweek[d]													
United States	+ 2.0	+ 2.1	+ 1.3	− 0.8	− 0.3	− 1.2	− 2.2	− 7.0	− 0.8	− 2.0	− 2.5	− 2.7	− 2.5
Michigan	+ 6.7	+ 3.3	+ 3.0	− 3.5	− 1.5	− 2.7	− 4.3	−10.5	+ 2.3	− 2.9	− 1.0	− 2.2	− 0.5
Average Weekly Earnings[e]													
United States	+12.8	+12.3	+11.2	+ 9.0	+ 8.5	+ 6.6	+ 5.0	+ 1.3	+ 6.8	+ 5.0	+ 4.2	+ 3.8	+ 4.1
Michigan	+19.5	+14.7	+15.0	+ 6.9	+ 7.5	+ 5.9	+ 2.7	+ 1.9	+11.0	+ 5.2	+ 7.2	+ 5.6	+ 7.4
Motor Vehicle Assembly													
United States	+40.6	+25.6	+25.4	−12.4	−18.4	−24.6	−24.2	−33.1	−23.7	−15.7	−16.2	−14.3	−12.7
Michigan	+58.9	+73.9	+53.5	+ 7.3	− 3.5	−13.6	−20.4	−19.4	− 8.3	− 6.9	− 4.3	− 6.9	− 4.8
General Motors	+50.8	+45.5	+29.8	+ 7.5	+ 4.3	− 6.2	− 9.7	−16.3	+ 3.1	−12.3	−12.1	−14.4	+ 1.3
Ford	+52.8	+99.9	+59.3	+14.1	−10.5	−30.7	−53.7	−46.0	−19.5	+ 9.2	+16.8	+19.5	− 6.6
Chrysler	+131.4	+711.6	+255.6	− 9.9	−22.8	−11.8	−12.7	+20.2	−44.5	− 6.8	− 0.8	−13.5	−30.0
Steel Tonnage Poured													
United States	+39.3	+49.5	+44.2	+23.8	− 4.7	−20.8	−24.6	−26.9	−28.4	−31.5	−37.9	−41.3	
Michigan	+103.8	+81.2	+75.7	+25.3	−21.4	−22.4	−13.3	−35.1	−35.8	−34.2	−25.8	−21.7	
Commercial Electricity Consumption													
United States	+ 7.5	+ 5.1	+ 0.3	− 0.3	+ 1.7	+ 2.1	+ 2.3	+ 4.0	+ 5.1	+ 5.5			
Michigan	+ 4.7	+ 4.5	+ 1.1	− 0.2	− 1.9	− 2.6	0	− 2.8	+ 4.0	− 0.8			
Industrial Electricity Consumption													
United States	+ 7.3	+ 9.4	+ 6.9	+ 2.0	− 0.4	− 2.2	− 6.4	− 6.2	− 6.9	− 6.0			
Michigan	+25.0	+13.2	+ 8.1	− 0.8	− 9.7	− 7.6	−19.4	−10.7	−17.2	− 9.6			
Nonresidential Construction Contracts													
United States											−16	−15	+10
Michigan	−38	−33	+16	−11	−38	−76	−52	−24	−52	−14	−55	−62	+30
Residential Construction Contracts													
United States											−15	−29	− 5
Michigan	+ 6	−22	−40	−36	−47	−60	−53	−44	−58	−47	−42	−36	−29
Nonbuilding Construction													
United States											+ 8	+ 5	+ 8
Michigan	−17	− 9	− 3	+32	− 8	−17	+ 9	+ 7	−52	−37	−72	− 1	−23
Retail Sales													
United States	+13.5	+11.1	+ 9.5	+10.9	+ 6.3	+ 4.7	+ 5.7	+ 0.2	+ 2.7	+ 2.6	+ 2.6	+ 3.8	+ 1.1
Michigan	+10.8	+ 5.4	+ 5.4	+ 7.3	+ 1.3	+ 0	+ 0.5	−11.2	− 6.3	− 5.7	− 5.3	+ 0.3	− 4.2
Detroit Area[a]	+ 8.0	+ 3.6	+ 2.3	+ 4.3	− 1.6	− 2.6	− 3.9	−17.2	−13.6	−14.3	−14.6	− 8.3	− 9.7
Outstate[b]	+13.1	+ 7.3	+ 8.8	+10.5	+ 4.9	+ 2.9	+ 5.7	− 4.2	+ 2.2	+ 4.2	+ 5.7	+ 9.9	+ 1.2
Consumer Price Index													
United States	+ 9.6	+10.7	+10.9	+11.0	+10.2	+ 9.6	+ 8.9	+ 8.4	+ 7.7	+ 6.8	+ 6.6	+ 6.7	+ 7.1
Detroit[a]	+ 9.3	+11.6	+11.1	+ 9.5	+ 6.5	+ 5.0	+ 3.2	+ 4.6	+ 2.8	+ 3.7	+ 4.1	+ 3.9	+ 3.1

Source: Michigan Employment Security Commission, special release; Bureau of Labor Statistics, **The Employment Situation** (monthly); Motor Vehicle Manufacturers Association, special release; American Iron and Steel Institute, special release; Energy Information Administration, special release; F. W. Dodge Division of McGraw-Hill Information Systems Company, news releases (monthly); and Bureau of the Census, **Monthly Retail Trade.**

a. Wayne, Oakland, Macomb, Livingston, Lapeer, and St. Clair counties.
b. Michigan minus Detroit area.
c. The number of wage and salary jobs, except agricultural, reported by employers.
d. Average hours worked by manufacturing production workers.
e. Average earnings among manufacturing production workers.

A YEAR OF CHANGE: THE ESSENTIAL INSURANCE ACT IN 1981

(Continued from page 3)

teristics such as the age of the driver or length of driving experience, driving record, and amount of insurance.

In addition, the law limits the number of different territorial base rates which a company may utilize in its rating plan to twenty for auto insurance and three for home insurance. The law also sets limits on the relationship between the highest and lowest rated territories for identical coverages and, for auto insurance, the differential between adjacent territories. This adjacency constraint was developed on the theory that while the risk of loss may vary among territories, the difference in risk among adjacent territories was clearly not enough to support the wide variation in auto rates which had occurred in the past.

CONSUMER RIGHTS AND INFORMATION

By requiring companies to offer insurance to all eligible persons and to apply underwriting rules uniformly, the act guarantees consumers the right to shop around for the best coverages at the lowest rates. To encourage competition, insurance agents are required to provide eligible persons with the lowest premium quote available through that agent for the insurance requested. To help consumers become better informed, the law requires they be provided with a variety of information regarding how the rate for the policy was determined and how a person can challenge a company's underwriting or rating decision.

In the past, a consumer who believed he had been treated unfairly had few options. The Essential Insurance Act sets forth a procedure by which a person may appeal a company's decision.

Under the new law, if a person believes he has been unfairly denied insurance or charged an improper rate, he may request a private, informal, managerial-level conference with a representative of the company who has authority to make a decision in the matter. If the company fails to respond to the request within thirty days, or if the person is not satisfied with the response, the matter can be appealed to the commissioner of insurance.

Further, an insured or applicant must be given the specific reasons he was nonrenewed, cancelled or turned down for insurance. If insurance is terminated, the reasons must be give as part of the nonrenewal or cancellation notice to a policyholder. If an applicant is turned down for insurance, the reasons for denial must be written if the application was made in writing or, in the case of an oral application, must be put in writing at the request of the applicant. In addition, a policyholder must be told the factors on which he is rated and must be allowed access to more detailed rating information.

In general, the Essential Insurance Act was designed to correct the inequities in the old system and to make essential insurance coverages available to most Michigan citizens at reasonable rates.

MICHIGAN'S ESSENTIAL INSURANCE AND NO-FAULT LAWS

(Continued from page 2)

tion of rates and to increase the availability of home and automobile insurance.

In fact, however, the private insurance industry was providing a high-risk pool for those who could not find insurance in the voluntary market through the Michigan Basic Property Insurance Association and the Michigan Automobile Insurance Placement Facility. Strictly speaking, there was no insurance availability problem for automobile and property insurance. While there were some problems with respect to service, type of coverage, social stigma, and distribution of costs, the technical problem of making essential insurance available was largely solved. The problems which existed were capable of being solved within a competitive system.[1] The Michigan Insurance Bureau and the legislature chose instead to impose governmental regulation on personal automobile and property insurance lines to the extent that a competitive free market operation is legally impossible and is currently nonexistent in this state.

The effects and probable long run ramifications of this type of social legislation are very profound. Just as it has taken approximately fifty years for people to realize that the Social Security Act as amended is an unsound piece of legislation which is essentially a massive income transfer system, it will undoubtedly take many years before most people realize and accept the fact that Michigan's No-Fault Automobile Insurance Law and Essential Insurance Act are unsound pieces of social legislation.

The cross-subsidization that flows under such legislation is substantial. It flows from the good driver to the poor driver. It flows from the lower risk, middle-aged, higher income group to the higher risk, younger driver, especially males, with presumably lower incomes. It flows from the outstate communities and upper peninsula to Flint and Detroit. Automobile insurance rates are estimated to have decreased 22 percent in Detroit compared to a 4 percent increase for most of the rest of the state since the Essential Insurance Act was adopted. It flows from lower risk women drivers to higher risk male drivers. The practice of the New View has been to balance large rate reductions to high risk insureds with relatively small rate increases to low risk insureds. This is the rationale for the New View's utility function and its political appeal. It is a form of socialism and is essentially an income transfer system. One must ask again, "Is this really what a majority of the citizens of this state want and need?"

FOOTNOTES

1. "Finds 'Unlimited' Flaws in Michigan No-Fault," *National Underwriter*, P & C Ed., June 4, 1982, p. 28.
3. Richard A. Schmalz, "Problems of Insurance Availability—'Redlining,' Part II," *CPCU Journal*, vol. 34, no. 1 (March 1981), p. 25. See also "Problems of
2. Ibid.

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Insurance Availabiiity—'Redlining,' " *CPCU Journal*, vol. 33, no. 4 (December 1980), pp. 149–157.
4. Ibid., p. 151.

EXHIBIT I

Summary of Michigan's Essential Insurance Act

HOME INSURANCE

I. Two homeowner's types of policies available
   A. Traditional replacement cost policy. You must carry insurance equal to at least 80 percent of the replacement cost of the property.
   B. New repair cost policy. You must carry insurance equal to 100 percent of the market value of the property or 100 percent of the actual cash value under a renter's policy.

II. Two bases for qualifying for coverage
   A. In the regular market, the law specifies conditions which make you ineligible.
   B. Outside the regular market, the Michigan Basic Property Insurance Association for those ineligible for coverage in the regular market.

III. Rating limitations
   A. The law allows an insurer no more than three different territory rate bases.
   B. For homeowners, the base rate in the lowest rated territory cannot be less than 70 percent of the base rate in the highest rated territory for the same policy.
   C. For renters, the base rate in the lowest rated territory cannot be less than 65 percent of the base rate in the highest rated territory for the same policy.
   D. The law specifies the factors upon which rates may be based.

AUTOMOBILE INSURANCE

I. Two bases for qualifying for coverage
   A. In the regular market, the law specifies conditions which make you ineligible and why an eligible person may be denied coverage.
   B. Outside the regular market, the Michigan Automobile Insurance Placement Facility.

II. Rating limitations
   A. The law allows an insurer no more than twenty different territory rate bases with five possible exemptions within the state.
   B. The base rate in the lowest rated territory cannot be less than 45 percent of the insurer's rate for the same policy in the highest rated territory.
   C. The base rate in one territory may not be less than 90 percent of the rate for the same coverage in an adjacent rating territory.
   D. The law specifies other rating variables which may be considered and provides that sex and marital status may not be used as rating factors.

Source: PA 145, 1979.

EXHIBIT II

Summary of Michigan's No-Fault Automobile Insurance Law

Applies to owners of:

I. All motor vehicles required to be registered in Michigan.
II. All motor vehicles driven in Michigan for more than 30 days in any calendar year.

Mandatory Coverages:

I. PIP, Personal Injury Protection, applies in and out of state
   A. Medical and Hospital Expenses, unlimited.
   B. Funeral Expenses, $1,000 per person.
   C. Work Loss (currently)
      1. Lost income, 85% or up to $2,049 per month for a maximum of 36 months ($73,764).
      2. Substitute services, up to $20/day. (Combined work loss cannot exceed $2,049/mo.)
   D. Dependent Survivors, up to $2,049 per month for a maximum of 36 months.

II. Residual Liability Insurance, minimum coverage
   A. Bodily Injury, $20,000 each person, $40,000 each occurrence.
   B. Property Damage, $10,000 each occurrence.

Optional Coverages:

I. Collision coverage options
   A. No coverage
   B. Limited collision
   C. Regular collision
   D. Broad form collision
II. Comprehensive coverage
III. Uninsured Motorists Coverage
IV. Towing and Labor Costs Coverage
V. "Buy-Back" up to $400 of Excluded Property Damage Liability Coverage

Source: PA 294, 1972 and PA 145, 1979.

EXHIBIT III

Michigan's No-Fault Automobile Insurance Maximum Lost Income Work Loss Benefit

Period	Maximum Amount/Mo.	36 Mo. Max.	Annual % Increase	Cumulative % Increase
10/1/73 - 9/30/74	$1,000	$36,000		
10/1/74 - 9/30/75	1,111	39,996	11.1%	11.1%
10/1/75 - 9/30/76	1,213	43,668	9.2	21.3
10/1/76 - 9/30/77	1,285	46,260	5.9	28.5
10/1/77 - 9/30/78	1,373	49,428	6.8	37.3
10/1/78*- 9/30/79	1,475	53,100	7.4	47.5
10/1/79 - 9/30/80	1,636	58,896	10.9	63.6
10/1/80 - 9/30/81	1,870	67,320	14.3	87.0
10/1/81 - 9/30/82	2,049	73,764	9.6	104.9

Source: Author's records and Insurance Bureau Bulletin 81-17.
*Survivors benefits are indexed with work loss benefits since 10/1/78.